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Question of the Falkland Islands (Malvinas)

Letter dated 28 October 2005 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General

I have the honour to request you to circulate, as a document of the General Assembly, the protest letter transmitted by the Government of Argentina to the United Kingdom of Great Britain and Northern Ireland (see annex I) and the related press release (see annex II). The protest letter was transmitted on 27 October prior to the adoption of new fisheries legislation claiming to assign ownership rights to fisheries resources in the waters surrounding the Malvinas Islands in violation of United Nations resolutions.

(*Signed*) César **Mayoral**
Ambassador
Permanent Representative

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Annex I to the letter of 28 October 2005 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General

The Ministry of Foreign Affairs, International Trade and Worship, Foreign Affairs Division, presents its compliments to the Embassy of the United Kingdom of Great Britain and Northern Ireland and has the honour to refer to the new unilateral and unlawful measure whereby the United Kingdom claims to assign ownership rights to the fisheries resources in the maritime areas surrounding the Malvinas Islands, which are the subject of a sovereignty dispute between the Argentine Republic and the United Kingdom.

The Argentine Republic reiterates what was stated in its letters 34/05 and 38/05 of 3 and 29 June respectively, and within the South Atlantic Fisheries Commission it expresses its strongest rejection of and formal protest at this new claim of long-term unilateral disposition of the fisheries resources in question, which follows previous British unilateral measures duly protested against by the Argentine Republic.

Among other protests, it is worth noting letter No. 68/86, submitted by the Argentine Republic on 31 October 1986, rejecting the British Government's claim to the right to regulate the conservation and exploitation of fisheries resources in an area of up to 200 nautical miles around the Malvinas Islands and to exercise jurisdiction over the continental shelf around such islands; letter 315/93 of 7 May 1993, protesting against and rejecting the British unilateral measures with respect to maritime areas surrounding the South Georgias and South Sandwich Islands which are an integral part of Argentine territory; and letter 236/94 of 23 August 1994, expressing Argentina's formal protest at and rejection of the British unilateral decision to expand its alleged jurisdiction over the maritime area located to the West and adjacent to the area described in the Annex to the Joint Declaration of 28 November 1990.

The Argentine Republic and the United Kingdom have not made provision for an agreed fisheries administration within the framework of the South Atlantic Fisheries Commission, and the unilateral character of the protested measure is, furthermore, incompatible with the bilateral arrangements on cooperation for the conservation of fisheries resources and seriously impairs the spirit of cooperation which must prevail within the Commission, as provided by the two Governments in the Joint Declaration of 28 November 1990. Argentina is assessing the impact of this new unilateral measure on cooperation within the South Atlantic Fisheries Commission.

The new measure is not compatible with the provisions of General Assembly resolution 31/49, which, among other things, calls upon "the two parties to refrain from taking decisions that would imply introducing unilateral modifications in the situation while the islands are going through the process recommended in the above-mentioned resolutions".

The Argentine Republic stresses that the good-faith implementation of the provisional arrangements under the sovereignty formula with respect to practical matters in the South Atlantic must lead to the adoption of measures which help to settle the sovereignty dispute. However, the protested measure is not consistent with the obligation of the United Kingdom to renew sovereignty negotiations, as

recognized in the relevant resolutions of the United Nations and other pronouncements of multilateral and regional bodies and forums.

The Argentine Republic reaffirms its rights of sovereignty over the Malvinas Islands, South Georgias and South Sandwich Islands and the surrounding maritime areas, which are an integral part of its national territory.

The Ministry of Foreign Affairs, International Trade and Worship, Foreign Affairs Division, takes this opportunity to convey to the Embassy of the United Kingdom of Great Britain and Northern Ireland the renewed assurances of its highest consideration.

Buenos Aires, 27 October 2005

Annex II to the letter of 28 October 2005 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General

"Press release: Protest submitted to the United Kingdom due to illegitimate adoption of new fisheries policy

The United Kingdom has adopted a new fisheries measure which implies a long-term illicit and unilateral disposition of fisheries resources in the maritime areas surrounding the Malvinas Islands which are subject to a sovereignty dispute between the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland.

The Argentine Republic has informed the United Kingdom on several occasions that Argentina would reject any British attempt to adopt unilateral measures which affect fisheries resources in the maritime areas surrounding the Malvinas Islands and that that would have a negative impact on bilateral cooperation in the field of fisheries conservation within the South Atlantic Fisheries Commission (SAFC), to which both Parties have committed themselves, under the sovereignty umbrella, pursuant to the Joint Declaration of November 28, 1990.

Within the South Atlantic Fisheries Commission, the Argentine Republic and the United Kingdom have not established a consensus-based management of fisheries and the unilateral nature of the protested measure is also contrary to this bilateral arrangement on cooperation for the conservation of fisheries resources.

This position has been conveyed by Argentina to the United Kingdom at every SAFC meeting in the last two years, since Argentina learned of the British intention to act in that way. The Argentine position was reflected in the Joint Press Release of the last Commission meeting on July 15, 2005. In addition, on June 3 and 29, the Argentine Republic had submitted two letters to the United Kingdom expressing its formal protest at the intention to adopt this unilateral measure which affects the natural resources of the maritime areas surrounding the Malvinas Islands.

Today, the National Government firmly rejects this measure, reaffirms the legitimate sovereignty rights of the Argentine Republic over the Malvinas Islands, South Georgias and South Sandwich Islands and their surrounding maritime areas and reminds that these territories are part of the sovereignty dispute that the United Nations recognizes and considers. Furthermore, this dispute places constraints on the administration and disposition of natural resources in this area.

Consequently, a new rejection and protest letter has been submitted to the Embassy of the United Kingdom in Buenos Aires. The text of this Press Release as well as the protest note submitted will be transmitted to the United Nations Secretary General and to the Secretary General of the Organization of American States.

This new unilateral British measure is contrary to Resolution 31/49 of the United Nations General Assembly which urges both Parties to refrain from taking unilateral modifications in the situation while the islands are going through the decolonisation process recommended by the resolutions of the United Nations General Assembly.

This decision follows previous British unilateral measures which are not compatible with the bilateral arrangements on cooperation for the conservation of fisheries resources and do not reflect the spirit of cooperation that must prevail within the South Atlantic Fisheries Commission.

The Argentine Republic duly protested against these measures. Among other protests, it is worth noting letter No. 68/86, submitted by the Argentine Republic on October 31, 1986, rejecting the British Government's claim to the right to regulate the conservation and exploitation of fisheries resources in an area of up to 200 nautical miles around the Malvinas Islands and to exercise jurisdiction over the continental shelf around such islands. Letter 315/93 of May 7, 1993, protesting and rejecting the British unilateral measures with respect to maritime areas surrounding the South Georgias and South Sandwich Islands which are an integral part of the Argentine territory and letter 236/94 of August 23, 1994, expressing Argentina's formal protest at and rejection of the British unilateral decision to expand its alleged jurisdiction over the maritime area located to the West and adjacent to the area described in the Annex to the Joint Declaration of November 28, 1990.

The Argentine Government is assessing the impact of this new unilateral measure on cooperation within the South Atlantic Fisheries Commission.

Furthermore, the Argentine Government has the purpose to exercise the rights available to it within the legal framework applicable to this situation in order to take measures against companies which try to exploit fisheries resources in the Argentine exclusive economic zone without the required authorization.

Buenos Aires, October 27, 2005".

DGMAS.